



## **GOVERNMENTAL IMMUNITY ACT**

The complete Governmental Immunity Act is available for your review as part of the Utah Code Ann. §63G-7-101 *et. seq.*

Following is a summary of the types of claims counties are provided immunity for, and a summary of the tort “caps”, which limit the amount a county can be held liable.

# GOVERNMENTAL IMMUNITY ACT OF UTAH

Utah Code Ann. § 63G-7-101 *et. seq.* as amended

## Summary of Primary Sub-sections

### **§63G-7-301 Waivers of immunity – Exceptions**

Claims which governmental entities and their employees are immune from liability include:

- A latent dangerous or latent defective condition of any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, public building, structure, dam, reservoir, or other public improvement;
- Performance, or failure to perform a discretionary function, whether or the discretion is abused;
- Assault, battery, false imprisonment, false arrest, malicious prosecution, intentional trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of mental anguish, or violation of civil rights;
- Issuance, denial, suspension, or revocation of, or failure to issue, deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar authorization;
- Failure to make an inspection or inadequate or negligent inspection;
- Institution or prosecution of any judicial or administrative proceeding, even if malicious or without probable cause;
- Misrepresentation by an employee whether or not it is negligent or intentional;
- Claims arising from riots, unlawful assemblies, public demonstrations, mob violence, and civil disturbances;
- Collection of and assessment of taxes;
- Incarceration of any person in a place of legal confinement;
- Claims arising out of any natural condition on publicly owned or controlled lands;
- Claims arising out of any condition existing in connection an abandoned mine or mining operation;
- Operation or existence of a pedestrian or equestrian trail that is along a ditch, canal, stream, or river that is part of a general plan and open to the public;
- Management of flood water, earthquakes, or natural disasters;
- Construction, repair, or operation of flood or storm systems;
- Operation of an emergency vehicle when being operated in accordance with statutory requirements;
- Providing emergency medical assistance;
- Fighting Fire;
- Regulating, mitigating, or handling hazardous materials or hazardous wastes;
- Conducting emergency evacuations;
- Transporting or removing injured persons to a place where medical assistance can be rendered;
- Intervening during dam emergencies;
- Unauthorized access to governmental records, data, or electronic information systems by any person or entity.

### **63G-7-801. Insurance -- Self-insurance or purchase of liability insurance by governmental entity authorized -- Establishment of trust accounts for self-insurance.**

(1) Any governmental entity within the state may self-insure, purchase commercial insurance, or self-insure and purchase excess commercial insurance

in excess of the statutory limits of this chapter against:

- (a) any risk created or recognized by this chapter; or
- (b) any action for which a governmental entity or its employee may be held liable.

(2) (a) In addition to any other reasonable means of self-insurance, a governmental entity may self-insure with respect to specified classes of claims by establishing a trust account.

(b) In creating the trust account, the governmental entity shall ensure that:

- (i) the trust account is managed by an independent private trustee; and
- (ii) the independent private trustee has authority, with respect to claims

covered by the trust, to:

(A) expend both principal and earnings of the trust account solely to pay the costs of investigation, discovery, and other pretrial and litigation expenses including attorneys' fees; and

(B) pay all sums for which the governmental entity may be adjudged liable or for which a compromise settlement may be agreed upon.

(c) Notwithstanding any law to the contrary, the trust agreement between the governmental entity and the trustee may authorize the trustee to:

- (i) employ counsel to defend actions against the entity and its employees;
- (ii) protect and safeguard the assets of the trust;
- (iii) provide for claims investigation and adjustment services;
- (iv) employ expert witnesses and consultants; and
- (v) provide other services and functions that are necessary and proper to carry out the purposes of the trust.

(d) The money and interest earned on the trust fund may be invested by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act, and are subject to audit by the state auditor.

#### **§ 63G-7-604 Limitation of Judgments**

The amount to which a governmental entity can be held liable for any claim brought in Utah State Courts is limited to approximately \$600,000 for any one person for injury, approximately \$250,000 for any one person for damage to property, and \$2,000,000 per occurrence regardless of the number of individual awards.

#### **§ 63G-7-804 Liability Insurance – Method for Purchase or Renewal**

(1) Except as provided in Subsection (2), a contract or policy of insurance may be purchased or renewed under this chapter only upon public bid to be let to the lowest and best bidder.